

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

---

HEAVENLY WILSON,

Plaintiff,

v.

1:18-CV-0772  
(GTS/CFH)

NEW CHOICES RECOVERY CENTER; and  
STUART ROSENBLATT,

Defendants.

---

APPEARANCES:

HEAVENLY WILSON

Plaintiff, *Pro Se*  
657 Sunset Street  
Schenectady, New York 12303

GLENN T. SUDDABY, Chief United States District Judge

**DECISION and ORDER**

Currently before the Court, in this *pro se* employment civil rights action filed by Heavenly Wilson (“Plaintiff”) against the above-captioned entity and individual (“Defendants”), is United States Magistrate Judge Christian F. Hummel’s Report-Recommendation recommending that Plaintiff’s Complaint be *sua sponte* dismissed without prejudice and with leave to amend. (Dkt. No. 8.) Plaintiff has not filed an objection to the Report-Recommendation, and the deadline by which to do so has expired. (*See generally* Docket Sheet.) After carefully reviewing the relevant papers herein, including Magistrate Judge Hummel’s thorough Report-Recommendation, the Court can find no clear-error in the Report-

Recommendation:<sup>1</sup> Magistrate Judge Hummel employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein, and Plaintiff's Complaint shall be dismissed without further Order of the Court unless, within thirty (30) days from the date of this Decision and Order, Plaintiff files an Amended Complaint correcting the pleading defect identified by Magistrate Judge Hummel. In addition to correcting that pleading defect, Plaintiff is advised that she should also allege facts plausibly suggesting how her supervisor Tricia Le treated non-African-American employees whom she also supervised differently than she treated Plaintiff.

**ACCORDINGLY**, it is

**ORDERED** that Magistrate Judge Hummel's Report-Recommendation (Dkt. No. 8) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

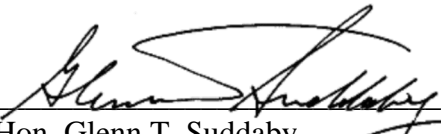
**ORDERED** that Plaintiff's Complaint (Dkt. No. 1) shall be **DISMISSED** without further Order of the Court, **unless**, within **THIRTY (30) DAYS** of the date of this Decision and Order, Plaintiff files an Amended Complaint that corrects the pleading defects identified in the Report-Recommendation; and it is further

---

<sup>1</sup> When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at \*1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).

**ORDERED** that, should Plaintiff file an Amended Complaint, it shall be referred to Magistrate Judge Hummel for review.

Dated: January 31, 2019  
Syracuse, New York

  
Hon. Glenn T. Suddaby  
Chief U.S. District Judge